

REMARKS

Reconsideration of the present application in view of the above amendments and following remarks is respectfully requested. Claims 1, 2, 4, 12, 13, 15-18, 20, 29, 31, 32, 35-37, 40-42, 44, 45, and 47-67 were pending. As set forth above, Applicants have hereby cancelled claims 1-4, 12, 13, 15-18 and 20 without prejudice to the filing of any divisional, continuation, or continuation-in-part application thereon. Applicants have also hereby amended claims 29, 40, 44, 54, 56-58, 61, 62, 65 and 67 to more clearly define the subject matter encompassed by the Applicants' invention, and hereby amended claims 47, 51 and 55 for mere editorial purposes to correct an obvious inadvertent typographical error or to correct claim dependencies due to the cancellation of certain claims. Support for the claim amendments may be found in the specification as originally filed. No new matter has been added. Therefore, claims 29, 31, 32, 35-37, 40-42, 44, 45, 47-51, and 53-67 are currently pending.

REJECTIONS UNDER 35 U.S.C. §112, SECOND PARAGRAPH

In the Office Action dated October 7, 2003, claims 1, 2, 4, 12, 13, 15-18, 20, 29, 31, 32, 35-37, 40-42, 44-45 and 47-67 were rejected under 35 U.S.C. §112, second paragraph, as indefinite. In particular, it is asserted that claims 1 and 29, and the claims depending therefrom, are not clear because the phrase "retain at least 30% tryptophan" is unclear.

Applicants respectfully submit that this ground of rejection has been rendered moot because claim 1 has been cancelled without prejudice and claim 29 has been amended to recite "have at least 30% tryptophan" as suggested by the Examiner. Accordingly, Applicants respectfully submit that the invention as presently claimed satisfies the definiteness requirements of 35 U.S.C. §112, second paragraph and, therefore, request that this rejection be withdrawn.

REJECTIONS UNDER U.S.C. §102(a) AND §102(e)

In the Office Action, claims 1, 2, 4, 16, 17, 18, 20, 44, 51, 52 and 56 were rejected under 35 U.S.C. §102(a) as anticipated by Fraser *et al.* (WO 98/40401), and under 35 U.S.C. §102(e) as anticipated by Krieger *et al.* (U.S. Patent No. 6,503,881).

Applicants respectfully submit that these grounds of rejection have been rendered moot because claim 1 has been cancelled without prejudice, as set forth above. Accordingly, Applicants respectfully request that these rejections be withdrawn.

REJECTIONS UNDER U.S.C. §103(a)

(1) In the Office Action, claims 12 and 13 were rejected under 35 U.S.C. §103(a) as obvious over Fraser *et al.* (WO 98/40401) or Krieger *et al.* (U.S. Patent No. 6,503,881) in view of Zhang *et al.* (*Biochem. Biophys. Res. Comm.* 247:674-680, 1998).

As an initial matter, Applicants respectfully submit that the Declaration of Burian and Bartfeld previously made of record established that Zhang *et al.* (*Biochem. Biophys. Res. Comm.* 247:674-680, 1998) is not prior art to the instant application. Nevertheless, Applicants respectfully submit that this ground of rejection has been rendered moot because claims 12 and 13 have been cancelled without prejudice, as set forth above. Accordingly, Applicants respectfully request that this rejection be withdrawn.

(2) In the Office Action, claim 15 was rejected under 35 U.S.C. §103(a) as obvious over Fraser *et al.* (WO 98/40401) in view of Shen *et al.* (*Proc. Natl. Acad. Sci.* 81(15): 4627-4631, 1984), the Stratagene Catalog (pp. 38, 44 and 48, 1993), the Pharmacia Product Catalog (pp. 110, and 121-123, 1996), and Sambrook *et al.* (*Molecular Cloning: A Laboratory Manual*, Cold Spring Harbor Laboratory Press, 1.14 – 1.15, 1989).

Applicants submit that this ground of rejection has been rendered moot because claim 15 has been cancelled without prejudice, as set forth above. Accordingly, Applicants respectfully request that this rejection be withdrawn.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims pending (29, 31, 32, 35-37, 40-42, 44, 45, 47-51, and 53-67) in the application are now believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is urged to contact the undersigned attorney if there are any questions prior to allowance of this matter.

Respectfully submitted,

Jan Burian and Daniel Bartfeld

Seed Intellectual Property Law Group PLLC

CUSTOMER NO.
00500



Jeffrey C. Pepe, Ph.D.
Registration No. 46,985

(JCP:Imp) 425970

Phone: (206) 622-4900
Fax: (206) 682-6031